

## **Introduction**

Standardisation within Europe is a voluntary cooperation amongst industry, consumers, public authorities, social partners and other interested parties, managed by independent organisations. European standardisation has successfully contributed to the implementation of European policies and legislation over the past two decades. This refers in particular to the Internal Market legislation based on the “New Approach”<sup>1</sup> a concept that covers major industrial sectors, as well as to an increasingly large collection of other EU policy initiatives. The role of European standardisation in support of EU legislation has been confirmed in the legislative package providing for a common framework for the marketing of products<sup>2</sup>.

The regulatory framework of standardisation in Europe essentially consists of three pieces of legislation: 1. Directive 98/34/EC<sup>3</sup> provides for a transparency system which obliges National Standards Organisations (NSOs) to inform the Commission, European Standards Organisations (ESOs) and other NSOs of new subjects for which they have decided, by including them in their standards programme, to prepare or amend a national standard. The Directive designates three ESOs (CEN<sup>4</sup>, CENELEC<sup>5</sup> and ETSI<sup>6</sup>) and NSOs – all listed in its Annexes – as actors in standardisation development. According to the Directive, the 98/34 Committee may propose that the Commission requests ESOs to draw up a European standard within a given time limit. 2. Although they are private organisations, the ESOs are considered to be bodies pursuing an objective of general European interest. The three ESOs are also partly financed by the European Union pursuant to Decision 1673/2006/EC<sup>7</sup>. 3. The legal framework of standardisation is completed by Council Decision 87/95/EEC<sup>8</sup> in the Information and Communications Technology (ICT) sector.

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<sup>1</sup> The “New Approach” is a legislative technique applied to the harmonisation of technical regulation within the internal market. Essential requirements necessary to safeguard public interests are harmonised in EU directives, whilst technical specifications of products are harmonised in voluntary European standards. Products complying with such harmonised standards are deemed to comply with the directive.

<sup>2</sup> This package includes:

- Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and
- Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93

<sup>3</sup> Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services

<sup>4</sup> CEN: European Committee for Standardisation

<sup>5</sup> CENELEC: European Committee for Electro-technical Standardisation

<sup>6</sup> ETSI: European Telecommunication Standardisation Institute

<sup>7</sup> Decision No 1673/2006/EC of the European Parliament and of the Council of 24 October 2006 on the financing of European standardisation

<sup>8</sup> Council Decision of 22 December 1986 on standardisation in the field of information technology and telecommunications (87/95/EEC).

In its Communication Com(2008)133 final, of 11<sup>th</sup> March 2008<sup>9</sup>, the Commission called for a reform to strengthen the European Standardisation System (ESS), in order to make it more reactive to innovation and more supportive to the competitiveness of EU enterprises. In its Conclusions of 25<sup>th</sup> September 2008, the Council encouraged this reform and invited the Commission to review its action plan for standardisation. In addition, the Small Business Act (Com(2008)394 final) encouraged the European Standards Organisations to review their Business Model and called for an adaptation of the ESS to the needs of SMEs.

Most recently, the Commission proposal of 3 March 2010 for a new Europe 2020 economic strategy<sup>10</sup> stresses the key importance of innovation for the achievement of the EU's strategic objectives of smart, inclusive and sustainable growth and mentions in this context that "speeding up setting of interoperable standards" is an important factor to improve framework conditions for business innovation. The Commission is ready to take forward all the necessary reforms to achieve this in the context of a new EU Research and Innovation Plan that it has committed to put forward in the autumn 2010.

The Commission's work on the review of standardisation will build on all relevant existing initiatives. In 2009, the Commission published a White Paper<sup>11</sup> and organised a public consultation on policy options aiming at a modernisation of ICT standardisation in the EU. The following proposals of the White Paper received a broad support from most stakeholders regarding:

- Required attributes (openness, consensus, balanced representation, transparency) of ICT standards for use in EU legislation and policies;
- More flexibility for referring to standards or other documents in public procurement;
- More synergy between ICT R&D and standardisation;
- Open, transparent, fair and predictable IPR policies in standards setting context;
- Allowing references to specific fora and consortia outputs in EU legislation or policies;
- The creation of a multi-stakeholder platform for ICT standardisation.

The ICT White Paper consultation would lead to a revision of the corresponding legal basis (Decision 87/95/EEC).

In addition, a group of standardisation experts, called EXPRESS, has worked out in 2009 a series of recommendations for the review of the European Standardisation System. In parallel, the European Standards Organisations have embarked on a convergence programme, called FLES (Future Landscape of European Standardisation). FLES has already led to a merger of the Central Secretariats of CEN and CENELEC and more cooperation between both organisations.

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<sup>9</sup> Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee "Towards an increased contribution from standardisation to innovation in Europe" Com(2008)133 final (11.03.2008)

<sup>10</sup> Communication from the Commission: "EUROPE 2020 A strategy for smart, sustainable and inclusive growth", COM(2010) 2020 final (2010-03-03)

<sup>11</sup> Com(2009)324 final – 3.7.2009) "Modernising ICT Standardisation in the EU – The Way Forward"

All these initiatives will have consequences on the overall legal framework of European standardisation. Whilst Decision 87/95/EEC could potentially be revised on the basis of the consultation on the White Paper on ICT standardisation, a review of Directive 98/34/EC and Decision 1673/2006/EC would also need to take into account the conclusions of the EXPRESS group, the Commission's study on access to standardisation and the evaluation of Community financing of standardisation pursuant to Decision 1673/2006/EEC.

In the context of the Better Regulation policy of the European Union, an Impact Assessment shall be performed on all provisions and options envisaged by the Commission. This Open Consultation aims at gathering opinions and feedback from stakeholders on avenues for exploration which will help the Commission shape concrete proposals to improve the functioning of European standardisation notably in the context of the EU Research and Innovation Plan.

NB: the present consultation document deals with standardisation outside the ICT sector, as ICT standardisation has already been the subject of the White Paper consultation.

### **A. Avoidance of the creation of new technical barriers to trade for products and services in the internal market**

The emergence of national service standards and alternative standardisation documents (like Publically Available Specifications) developed by National Standards Organisations (NSOs) constitutes a risk of technical barriers to trade within the internal market. Since the 1980's, the Commission and the standardisation bodies (ESOs and NSOs) shall be informed – in the field of products – of the new subjects for which the NSOs have decided, by including them in their standards programme, to prepare or amend a standard. The same procedure could be envisaged for national programmes of service standards (including process standards) and alternative standardisation documents.

#### **Questions:**

1. Do you think that service standards (including process standards) and alternative standardisation documents should be included in the scope of Directive 98/34/EC or its successor?
2. Are you aware of specific cases where national service standards and alternative standardisation documents have caused technical barriers to trade?

### **B. Adaptation of the European standardisation system to the rapid evolution of technologies**

The traditional standardisation process lasts an average of 1 to 3 years. This pace very often does not correspond to the speed with which new technologies are developed, and some sectors have been reluctant to ask the standards organisations to develop standards, even if such standards would have contributed to extend their market or rationalise their processes. Others, especially in the ICT sector, have developed interoperability specifications in fora and consortia, outside the ESOs as described in the Commission White Paper. However, neither the current legal framework of European standardisation (Decision 87/95/EEC), nor the rules

on public procurement allow reference to such fora and consortia specifications in ICT regulations or public policies.

**Questions:**

3. For areas other than Information and Communication Technology (ICT), should it be possible to refer to documents developed by fora and consortia in legislation and public policies? If it should, how should it be implemented?
4. How could ESOs and NSOs be encouraged to accelerate their standards development process? Should for example the Community financing for standardisation be subject to conditions in terms of speed of delivery whilst maintaining the openness of the process?

**C. Adaptation of the European standardisation system to new markets and societal challenges**

European standardisation has been developed on the model of the international standards organisations, to contribute to rationalisation of production, growth of labour productivity, opening of markets and safety of products. Globalisation, new global challenges, “Better regulation” public policies, new societal demands as well as a growing share of services in the global economy and the boosting of innovation to resolve the current economic crisis request standardisation to adapt its traditional structures.

Standards remain voluntary instruments. Their effect depends on their credibility and of the level of consensus that they represent. The current diversification of the use of standards requires a broadening of the range of partners involved in the standardisation process, meaning enhanced openness, transparency and balanced representation.

Standards facilitate global trade and access to markets. Standards need to be accessible for all users, and the availability of translations of standards can help disseminate new technologies.

## Questions:

6. Should the WTO principles of transparency, openness, impartiality, consensus, efficiency, relevance and consistency<sup>12</sup> be integrated in the legal framework of European standardisation (especially in EU Directive 98/34/EC or in its successor)? How should this be implemented?
7. How could the participation of consumer organisations, environmental NGOs, trade unions and social partners, and SMEs be best promoted? What should be the role of public authorities (European Commission and Member States) in supporting such a participation in a transparent, open, impartial, consensual, efficient, relevant and consistent European standardisation system?
7. How could the NSOs (National Standards Organisations) deepen their cooperation, and mutualise their activities? Could the following tasks be shared amongst several NSOs?
  1. Management of the Secretariats of Technical Committees?
  2. Notification of new national standardisation projects?
  3. Promotion/sales of standards?
  4. Other?
8. Without prejudice to the national delegation principle, how could the European Standards Organisations (ESOs) manage directly, on a case by case basis, some standardisation activities, especially some Technical Committees?
9. What support should the European Commission provide to facilitate the use of European standards as a means to open global markets? What would be the operational means that the Commission should use? (Support experts' participation in international standardisation activities, translation of European standards into extra-community languages?)
10. Under which conditions do you think that the European Commission could launch, on a case by case basis, calls for tenders, open to the ESOs and to other organisations, to develop standards supporting EU policies and legislation?
11. What is, in your view, the most efficient level of participation in the process of standards development: national, European, international?
12. In your opinion, where is the major added value in European standardisation with respect to national standardisation?

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<sup>12</sup> As approved in the Decision of the Committee on principles for the development of international standards, guides and recommendations with relation to article 2, 5 and annex 3 of the WTO/TBT Agreement (G/TBT1/rev.8 23 may 2002)

## **D. Cost of standards**

The costs of purchasing standards have been identified as an important barrier to their use, especially by SMEs. Purchasing a full collection of standards is sometimes necessary to answer a call for tender, access specific markets or take full advantage of the benefits of “New Approach” regulation. Some stakeholders consider that the price of standards – different in every National Standards Organisations – is too high with respect to their function of public interest.

### **Questions:**

13. What are, in your view, the most serious barriers to the use of standards by enterprises: costs of standards (purchasing price)? Costs of operational implementation? Access to information? Knowledge of existing standards?<sup>13</sup>
14. What could the standards organisations do, in addition to their current practice, to facilitate the access to standards, especially by SMEs?

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<sup>13</sup> These barriers have been identified in the Study “Access to Standardisation” - EIM March 2009, contracted by the European Commission